

400.76-PC
97-3125-M/MH

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

CARLOS A. GARCIA PEREZ, et al	:	
	:	CIVIL NO. 97-1703 (JAG)
Plaintiffs	:	
	:	
vs.	:	PLAINTIFFS DEMAND
	:	TRIAL BY JURY
ALVARO SANTAELLA, M.D., et al	:	
	:	
Defendants	:	

ANSWER TO THE AMENDED COMPLAINT

TO THE HONORABLE COURT:

COMES NOW defendant doctor Alvaro A. Santaella Jiménez, through his undersigned attorneys and respectfully states and prays:

1. The allegations of paragraph of the amended complaint are admitted.
2. As to paragraph two of the amended complaint, it is admitted that this defendant is a citizen of the United States of America and resident of the Commonwealth of Puerto Rico. It is also admitted that he shared responsibility with the hospital and other defendant doctors in the medical care and treatment of the minor plaintiff as there is only one minor plaintiff in this case.

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3. The allegations of paragraph three of the amended complaint are admitted.
4. No allegation is entered with respect to paragraph four as it states a conclusion of law.
5. No allegation is entered with respect to paragraphs five thru twelve of the amended complaint as they are addressed to other defendants.
6. As to paragraph thirteen, it is admitted that SIMED is a corporation organized under the laws of Puerto Rico with its principal place of business in Puerto Rico and is the professional liability insurer of defendant doctor Santaella. Other allegations are not addressed to this defendant.
7. No allegation is entered with respect to paragraphs fourteen and fifteen of the amended complaint as they are not addressed to this defendant.
8. No allegation is entered with respect to paragraphs sixteen thru eighteen of the amended complaint as these state conclusions of law.
9. As to paragraph nineteen, we proceed to reproduce our prior allegations in this answer to amended complaint.
10. No allegation is entered with respect to paragraph twenty thru twenty two as they are addressed to other codefendants in this case.
11. The allegations of paragraph twenty three of the amended complaint are admitted.
12. The allegations of paragraph twenty four are admitted with the explanation that additional doctors have been hired besides those mentioned in the paragraph.

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13. The allegations of paragraph twenty five are denied as this defendant was not an employer of codefendant doctors as these were independent contractors providing services at NICU. It is admitted that we provided supervision for the medical treatment provided by these doctors.
14. No allegation is entered with respect to paragraph twenty six of the amended complaint as it is addressed to the hospital although it is denied that the hospital was the direct employer of this defendant.
15. The allegations of paragraph twenty seven are admitted.
16. The allegations of paragraph twenty eight are admitted.
17. The allegations of paragraph twenty nine are denied.
18. The allegations of paragraph thirty are neither admitted nor denied as they are not addressed to this defendant.
19. The allegations of paragraphs thirty one thru thirty eight are denied.
20. As to paragraph thirty nine, we proceed to reproduce our previous allegations.
21. No allegation is entered with respect to paragraph forty of the amended complaint as it specifically states a conclusion of law.
22. The allegations of paragraph forty one are admitted exclusively with respect to plaintiff Carla Isabel García Baerga.
23. No allegation is entered with respect to paragraphs forty two and forty three of the amended complaint as they state conclusions of law although as to paragraph forty three, it is denied that defendant doctors incurred in any

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failure during the treatment provided by the doctors in this case during the quadruplets stay at the NICU facilities of the Ashford Presbyterian Community Hospital.

24. The allegations of paragraph forty four are denied.
25. The allegations of paragraph forty six thru forty eight are neither admitted nor denied as they are not addressed to this defendant although any allegations of negligence addressed to this defendant are denied.
26. The allegations of paragraph forty nine thru fifty five are denied.

AFFIRMATIVE DEFENSES

1. The amended complaint fails to state a cause of action for which relief may be granted.
2. The medical treatment provided to babies born to the García Baerga family complied with all medical standards.
3. The complaint is time-barred.
4. This defendant is not responsible for any acts or omissions which may be attributable to any other codefendants.
5. The "Claims Made" insurance policy number PRM-4135, with effective date of February 2, 1997 through February 2, 1998 and retroactive date of February 2, 1992, issued by SIMED to the named insured doctor Alvaro A. Santaella Jiménez, provides coverage for alleged medical responsibility actions, as agreed under the terms, conditions, exclusions and endorsements of said insurance policy.

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6. SIMED denies any joint liability between the insurer and its named insured for the responsibility SIMED might have to assume under the policy issued to him. Should it be determined that the named insured is legally obligated to compensate damages, SIMED's liability is strictly contractual in nature and up to the applicable limits for medical incident under the "Claims Made" insurance policy number PRM-4135 issued to the named insured and which applies to the present claim.

WHEREFORE, it is respectfully requested that the complaint be dismissed.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY: That I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of filing to Andrés Guillemard-Noble, Esq.; Angel R. de Corral, Esq.; José Héctor Vivas, Esq.; Atty. Doris Quiñones Tridas; Roberto Ruiz Comas, Esq.; Pedro Toledo González, Esq.; Igor J. Domínguez; Ricardo L. Rodríguez Padilla, Esq.; Atty. Marta E. Vilá Báez and to José E. Otero, Esq.

In San Juan, Puerto Rico, this 20th day of October, 2004.

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